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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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DWIGHT O. BROUSSARD,  v.  UNITED STATES ARMY MEDICAL COMMAND,  Defendant.	REPORT AND RECOMMENDATION  Case No. 2:13-cv-54 RJS  District Judge Robert J. Shelby  Magistrate Judge Brooke Wells
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This matter was referred to the undersigned pursuant to [28 U.S.C. 636\(b\)\(1\)\(B\)](#) by District Judge Robert J. Shelby on October 8, 2014.<sup>1</sup> Pending before the Court is Plaintiff, Dwight Broussard's, Motion for Default Judgment that was filed on September 5, 2014.<sup>2</sup> Mr. Broussard asserts that a default judgment is appropriate because he served the Summons on Colonel Frank King as Chief of the Civil Litigations Division on June 30, 2014, and as of the date of this decision, there has been no Answer filed in an alleged violation of the 60 day period for a response. The Court disagrees and recommends that the motion be DENIED.

As noted by the Government in their opposition,<sup>3</sup> Mr. Broussard has not served the United States Attorney for the District of Utah. Rule 4(i) of the Federal Rules provides in relevant part that for a party to properly serve the United States, that party must "deliver a copy of the summons and of the complaint to the United States attorney for the district where the

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<sup>1</sup> Docket no. 28.

<sup>2</sup> [Docket no. 26](#).

<sup>3</sup> [Docket no. 27](#) (note the Government entered a special appearance to specifically oppose Mr. Broussard's motion).

action is brought . . . .”<sup>4</sup> Until proper service is effected Defendant need not file a response until 60 days has passed.<sup>5</sup>

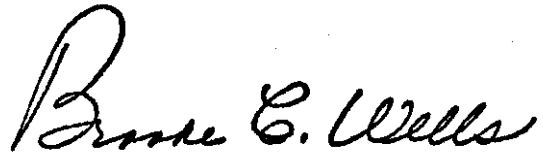
There is no evidence in the record that service has been properly effected. Further, in response, Mr. Broussard does not dispute that he has failed to serve the United States Attorney Office or the District of Utah. Rather, he raises arguments that are not relevant to the instant motion and as such they are rejected by the Court.

Accordingly, the Court RECOMMENDS that Mr. Broussard’s Motion for Default Judgment be DENIED.<sup>6</sup>

The Court further RECOMMENDS that Mr. Broussard be given an additional 60 days to effect proper service and if he fails to do so, then this case should be DISMISSED.

Copies of this report and recommendation are being mailed to all parties who are hereby notified of their right to object. Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of Court. Any objection must be filed within this deadline. Failure to object may constitute a waiver of objections upon subsequent review.

DATED this 16 October 2014.



Brooke C. Wells  
Brooke C. Wells  
United States Magistrate Judge

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<sup>4</sup> Fed. R. Civ. P. 4(i).

<sup>5</sup> See Fed. R. Civ. P. 12(a)(2).

<sup>6</sup> At this time the Court does not consider the Government’s arguments that this case should be dismissed because Mr. Broussard cannot show that he is entitled to relief.